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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,439	09/26/2003	Rami Caspi	2003P08209US	8507

7590

11/30/2005

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
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EXAMINER

ISSING, GREGORY C

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,439	Applicant(s) CASPI ET AL.	
	Examiner Gregory C. Issing	Art Unit 3662	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The maintenance of availability rules associated with a user device based on position and speed is not clearly defined in the claims since the claims fail to indicate how the speed plays any role in the system, i.e. the telecommunication device is not described as providing any speed information to the administration device nor does the claim describe how the administration device would determine speed information, thus use of speed information, though it may be associated with an availability rule is not definitely defined in the claim. The claims fail to specify what "availability rules" are, although the arguments apparently address such as rules for contacting the associated user. If the applicants are arguing such feature, language such as "for contacting said user" should be inserted between "device" and "based on". Otherwise, the applicants' arguments are not commensurate in scope with the claim language. In claims 1, line 8, and claim 17, line 9, the "wherein" should be deleted and "said administration device" should be indented to indicate that the administration device is a part of the system, otherwise, the "wherein" clause merely consists of a method step in an apparatus (system) claim and fails to provide any structural limitations to the system.

4. Claim 2 remains uncorrected with respect to the dependency of the claim. It should be dependent on claim 1 not claim 9.

5. Claims 14 and 15 are questioned in light of the applicants' arguments since it would appear that the e-mails and text messages have to do with subsequent contact information associated with the availability rules as opposed to the means of communication for sending the alerting signal. Clarification is required.

6. The amendment to the specification contains an apparent error since Serial Number 10/672105 does not agree with the title or inventor. Perhaps 10/6721106 is the proper identification.

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7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliot (6,243,039) in view of Teckchnadani et al (2003/0151501).

9. Elliot teach use of movement thresholds including movement beyond predefined units of distance in a time period (8:3-12) as well as monitoring movement measurements as ascertained from the history of known positions and known time stamps (9:48-58 and 9:66-10:4). Elliot discloses a portable wireless communication device housing a positioning controller in the form of a GPS receiver adapted to determine the position of the unit combined with a paging or cellular communications device (5:60-67). The transmitter-receiver of the portable device, i.e. the paging or cellular device, transmits the current GPS coordinates, the current time, ID, and activation indicator (5:31-33). The criteria for transmission from the portable device may include depression of an emergency button, remote activation, or exceeding predefined thresholds, which thresholds are exemplified by distance from a predefined location or movement, as indicated by the GPS coordinates wherein movements beyond predefined units of distance in the past hour show the use of speed (8:3-12). The central control system, which meets the scope of the administration device maintains a customer profile database 40 which maintains availability rules associated with the portable device for notifying a third party, e.g. a parent, using the customer selected form of communication, e.g. a page, a telephone call, or an e-mail message (8:13-25).

10. Elliot et al differs from the claimed subject matter since the threshold criteria determinations are performed in the central control center (administration device) as opposed to the wireless user device.

11. Teckchandani et al teach a wireless mobile asset also including a positioning controller 229 and wireless communications controller 223 for sending an alert to a remote station when a violation is detected at the mobile device.

12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elliot by incorporating the threshold criteria determination at the mobile device so as to limit the number of transmissions between the mobile device and the central control center by not requiring transmissions according to a preset interval of time and thereby reduce power consumption.

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13. Applicants' arguments are not commensurate in scope with the claim limitations. In addressing the prior art, applicants remark that (1) the invention relates to third-party monitoring, (2) it is set to trigger an alarm if it departs from a predetermined location and speed over a particular period, and (3) availability rules that define how a user may be contacted. None of these features are definitely found in the claims. Only two devices are specified, a user device and an administration device, thus there is no third party. Position information is transmitted when the device is outside of a predetermined location; therefore, firstly, there is nothing about an alarm, and secondly, the position is transmitted only with respect to position and not with respect to speed as best understood. The claim language defines the availability rules as being associated with position and speed. Lastly, the claims state nothing about the use of the availability rules defining how to contact a user.

14. The rejections over Yoakum et al and Wilson et al are withdrawn. Yoakum et al do not show availability rules associated with position and speed over a predetermined period per se although Yoakum et al do teach availability rules associated with whether or not the user is driving and the selection of communicating via mobile telephone (8:20-23).

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al (2003/0112948) disclose a system and method for connection between parties based on availability, wherein certain embodiments enable GPS position to be used as a criteria for availability.


16. Zmolek (2003/0154293) discloses a presence tracking and interconnection technique including tracking rules that govern how the location data and availability information is to be processed into presence intelligence. Some tracking rules manipulate classification based on location and availability information wherein the classification tag can communicate the purpose of the communication device, the type of communication device, the spatial, functional or geopolitical location of the communication device (e.g., coordinates, home, automobile, office desk, etc), the event triggering the report (e.g., sending a message or other user-directed event), as well as others [0066-0067].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory C. Issing
Primary Examiner
Art Unit 3662

gci